

RESOLUTION

NO. R-19-80

CITY HALL: February 21, 2019

BY: COUNCILMEMBER GISLÉSON PALMER

SECONDED BY:

**RESOLUTION OF THE CITY COUNCIL OF NEW ORLEANS CALLING FOR
THE REDEDICATION OF REVENUES
TO THE REGIONAL TRANSIT AUTHORITY**

WHEREAS, New Orleans voters approved in 1985 a one-percent sales tax to be “dedicated to transit and transit-related purposes”; and

WHEREAS, The ballot initiative for this sales tax specifically exempted hotel rooms; and

WHEREAS, In 1999 the Regional Transit Authority (RTA) sued the City of New Orleans through its Director of Finance, Marina Kahn, arguing that exempting hotel rooms was unlawful; and

WHEREAS, The RTA and tourism groups agreed upon a settlement in 2000, leading RTA and the New Orleans Tourism Marketing Corporation (NOTMC) to sign a cooperative endeavor agreement (CEA); and

WHEREAS, The 2000 CEA stipulates that the one-percent sales tax would apply to hotels, but that annual hotel tax revenues would be divided between the RTA and NOTMC, with NOTMC receiving 40 percent of the first \$7.2 million generated and 60 percent thereafter, shared among NOTMC, the Convention Center, and the City; and

WHEREAS, To date, RTA estimates that it has sent \$62 million to the NOTMC and Convention Center, under the terms of the CEA; and

WHEREAS, Also under the terms of the CEA, half of those revenues, about \$31.8 million, have been held in an escrow account for the Convention Center's Phase IV Expansion Project, which has been placed on an indefinite hold since 2007; and

WHEREAS, This funding has been unavailable for the RTA to make investments in transit services, improvements to infrastructure, amenities for riders, and the replacement of aging vehicles; and

WHEREAS, The RTA contends that the CEA executed as a result of the settlement agreement is unconstitutional under Article VI, Sections 26 and 32 of the Louisiana Constitution; and

WHEREAS, In *City of New Orleans v. Louisiana Assessors' Retirement and Relief Fund*, the Louisiana Supreme Court held that when voters approve a special tax, "the tax cannot be used for a purpose other than that approved by the citizens, and any alteration of a prior dedication must be by vote of the people"; and

WHEREAS, In Opinion No. 07-0295, the Louisiana Attorney General provided that "It has consistently been the opinion of this office that the proceeds from a special tax can only be used for the objects and purposes for which the tax was levied," referencing Attorney General Opinion Nos. 07-207, 07-0154, 05-0159, and 05-0168; **NOW, THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the RTA is now taking action to restore the foregone public transit funding, which ultimately benefits both local and visiting riders.

BE IT FURTHER RESOLVED, That the RTA will cease any further payments to NOTMC, effective immediately, and has requested that NOTMC refund the \$31.8 million balance of the Ernest N. Morial New Orleans Exhibition Hall Authority (ENMNOEHA)-Transit Fund, with applicable interest.

BE IT FURTHER RESOLVED, That the RTA has also requested arbitration before Mayor LaToya Cantrell, pursuant to Section 4.3 of the CEA, relative to both the repayment of funds and termination of future payments to NOTMC.

BE IT FURTHER RESOLVED, That the City Council strongly supports the RTA's efforts to reclaim tax revenues specifically approved by the voters to fund public transit, so that the RTA can better invest in transit vehicles, services, and innovations. It is especially important for RTA to receive the \$31.8 million in the ENMNOEHA-Transit fund, since Phase IV has been abandoned since 2007.

BE IT FURTHER RESOLVED, That the New Orleans City Council recognizes the invaluable role that NOTMC plays in fostering jobs and economic growth by developing New Orleans's tourism industry, and the Council encourages NOTMC to seek out alternative sources of funding to replace revenues lost once the agreement with RTA is dissolved.

BE IT FURTHER RESOLVED, That the Clerk of Council is hereby requested to forward a certified copy of this resolution to the Office of Mayor LaToya Cantrell, Office of Transportation, Regional Transit Authority, New Orleans Tourism Marketing Corporation, and Ernest N. Morial New Orleans Exhibition Hall Authority.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE RESOLUTION WAS ADOPTED.